

IN THE MATTER OF:

Valero Refining - Texas, L.P.,

Texas City, Texas

RESPONDENT

ADMINISTRATIVE ORDER

DOCKET NO. CAA-06-2018-3326

ADMINISTRATIVE ORDER

The Director of the Compliance Assurance and Enforcement Division of the United States Environmental Protection Agency, Region 6 (“EPA or Complainant”) and Valero Refining - Texas, L.P., (“Valero” or “Respondent”) in the above-referenced proceeding, hereby enter into this Administrative Order (“Administrative Order” or “AO” or “Order”).

I. INTRODUCTION

1. The following Findings are made and an Order issued pursuant to Section 113(a)(3) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3), for Respondent’s failure to comply with Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), regarding the documentation of mechanical integrity testing and inspection. The parties to this Order are EPA Region 6 and the Respondent.

2. This Order is entered into upon mutual agreement of the parties. Accordingly, Respondent consents to and agrees not to contest EPA's jurisdiction to issue this Order or enforce its terms. Further, Respondent will not contest EPA's jurisdiction to either compel compliance with this Order in any subsequent enforcement proceedings, whether administrative

or judicial, or to require Respondent's full compliance with the terms of this Order or impose sanctions for violations of this Order. Respondent consents to the terms of this Order.

3. This Order shall apply to and be binding upon Respondent, its agents, successors and assigns and upon all persons, contractors, and consultants acting under or for Respondent. No change in ownership or corporate or partnership status of Respondent will in any way alter the status of Respondent or its responsibilities under this Order.

II. STATUTORY AND REGULATORY AUTHORITY

4. Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1), provides that the objective of the regulations and programs authorized under Section 112(r) shall be to prevent the accidental release of regulated substances or other extremely hazardous substances and to minimize the consequences of any such release that does occur.

5. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), the Administrator is authorized to promulgate regulations dictating release prevention, detection, and correction requirements.

6. On June 20, 1996, the EPA promulgated a final rule known as the Chemical Accident Prevention Provisions, 40 C.F.R. Part 68, which implements Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7).

7. Under 40 C.F.R. § 68.10(a), an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process ("Covered Process"), as determined under 40 C.F.R. § 68.115, shall comply with the requirements of 40 CFR Part 68. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes EPA to issue compliance orders for violations of specific sections of the CAA, including violations of Section 112(r), 42 U.S.C. § 7412(r). A copy of the order must be sent to the relevant state air pollution control

agency. An order relating to a violation of Section 112 of the CAA can take effect immediately upon issuance.

8. The authority to issue orders pursuant to Section 113(a)(3) of the CAA has been delegated to EPA Region 6's Regional Administrator, and in turn to the Director of EPA Region 6's Compliance Assurance and Enforcement Division.

III. EPA REGION 6 FINDINGS

9. Respondent is a limited partnership authorized to do business in the State of Texas.

10. Respondent owns and operates a petroleum refinery located at 1301 LOOP 197 S, Texas City, Texas 77592.

11. 40 C.F.R. § 68.130 lists toxic and flammable substances regulated under Section 112(r) of the CAA and establishes a threshold quantity of the regulated substances for participation in the Risk Management Program (RMP).

12. The regulated flammable substances that are held above the threshold quantities identified in 40 C.F.R. §68.130 are: flammable mixtures, the components of which include: butane, propylene, propane, 1, 3 - butadiene, isobutane, pentane, ethane, methane, hydrogen, butene, isobutane, and isopentane.

13. Respondent's facility is a "stationary source" as that term is defined by Section 112(r)(2)(C) of the CAA, 42 U.S.C. § 7412(r)(2)(C), and 40 C.F.R. § 68.3.

14. The facility is subject to the Program 3 requirements of the RMP regulations and must, among other things, comply with the requirements of 40 C.F.R. Part 68, Subpart D.

15. On April 19, 2018, there was a release of butane from a feed line in a fractionator column. The butane found an ignition source resulting in a fire. Although there were no

fatalities, and no injuries directly resulting from the fire, a number of employees and contractors did sustain slip and fall type injuries while evacuating the area. There was extensive damage to the fractionator.

16. During EPA's investigation of the April 19, 2018 fire, it was determined that one section of feed line had internally thinned and worn through releasing butane to the atmosphere. The cause of the thinning was found by a 3rd party engineering consulting firm to be the existence of previously unknown levels of residual elements (copper, nickel, chrome) in a single length of carbon steel pipe in the 10" feed line of the unit. That section of pipe was part of a larger pipe procurement used to replace the 10" feed line in 1995. The remaining pipe sections in the 10" feed line was well within design and operating limits following the April fire and did not show the same level of corrosion.

17. Following an exhaustive metallurgical forensic investigation by the company, it was determined that the residual element chemistry of the failed pipe was anomalous, despite the pipe being the right type, size and schedule for its service. Test results for all of the other segments of the feed pipe did not show the same level of unexpected thinning or contain a significant percentage of residual elements in their composition. Visual inspections did not, and could not, identify internal thinning or identify pipe with significant percentages of residual elements.

18. A review of the refinery's records following the event revealed a failure of the plant to document visual inspections of the unit in violation of its inspection program and the requirements in 40 C.F.R. § 68.73(d)(4).

Count One – 40 C.F.R. § 68.73(d)(4) - Failure to Document Visual Inspections of the Unit

19. Pursuant to 40 C.F.R. §68.73(d)(4):

“(4) The owner or operator shall document each inspection and test that has been performed on process equipment. The documentation shall identify the date of the inspection or test, the name of the person who performed the inspection or test, the serial number or other identifier of the equipment on which the inspection or test was performed, a description of the inspection or test performed, and the results of the inspection or test.”

Respondent’s failure to document visual inspections is a violation of the mechanical integrity inspection program requirements in 40 C.F.R. § 68.73(d)(4).

IV. ORDER

20. Accordingly, pursuant to Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), it is agreed that Respondent, which has consented to the terms of this Order, shall comply with the requirements of 40 C.F.R. Part 68 as follows:

- a. Document each mechanical integrity inspection and test that is performed on the unit, including but not limited to periodic visual inspections.
- b. Conduct training with all relevant company employees and contractor employees who perform mechanical integrity testing on any RMP-covered units in the refinery to ensure that the documentation requirements of 40 C.F.R. §68.73(d) are fully complied with at all times. The training of the contractor employees may be performed by the contractor or other qualified 3rd party.
- c. All training described in paragraph 20.b. above shall be completed, and documented, no later than 90 days following the Effective Date of this Order. Documentation of the completed training shall be submitted to EPA Region 6 no later than 120 days following the Effective Date of this Order.

V. NOTIFICATIONS

21. Submissions required by this Order shall be in writing and shall be mailed to the following addresses with a copy also sent by electronic mail:

U.S. Environmental Protection Agency - Region 6
Attn : Mr. Carlos Flores (6EN-AS)
1445 Ross Avenue – Suite 1200
Dallas, Texas 75202-2733
Flores.carlos@epa.gov

22. EPA will send all written communications to the following representative for Respondent:

Parker Wilson
V.P. Regulatory Law
Valero Companies
P.O. Box 69600
San Antonio, Texas 78269-6000

23. All documents submitted to EPA in the course of implementing this Order shall be available to the public unless identified as confidential by Respondent pursuant to 40 C.F.R. Part 2, Subpart B and determined by EPA to merit treatment as confidential business information (“CBI”) in accordance with applicable law.

VI. GENERAL PROVISIONS

24. The provisions of this Order shall apply to bind Respondent, its officers, directors, agents, and employees.

25. The provisions of this Order shall be transferrable to any other party, upon sale or other disposition of the company. Upon such action, the provisions of this Order shall then apply to and be binding upon any new owner/operator, its officers, directors, agents, employees, and any successor(s) in interest.

26. Nothing in this Order shall be construed to affect EPA's authority under Section 114 of the CAA, 42 U.S.C. § 7414.

27. Nothing contained in this Order shall affect the responsibility of Respondent to comply with all applicable Federal, State, or local laws or regulations, including Section 303 of the CAA, 42 U.S.C. § 7603.

28. Any and all information required to be maintained or submitted pursuant to this Order is not subject to the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501 et seq., because it seeks to collect information from specific individuals or entities to assure compliance with this administrative action.

29. This Order is not intended to be nor shall it be construed to be a permit. Further, the parties acknowledge and agree that EPA's approval of this Order does not constitute a warranty or representation that requirements provided hereunder will meet the requirements of the General Duty Clause. Compliance by Respondent with the terms of this Order shall not relieve Respondent of their obligations to comply with the CAA or any other applicable local, State, or federal laws and regulations.

30. EPA reserves all of its statutory and regulatory powers, authorities, rights, and remedies, both legal and equitable, which may pertain to Respondent's failure to comply with any of the requirements of this Order. This Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which EPA has under any statutory, regulatory, or common law authority of the United States.

31. This Order does not resolve any federal civil monetary claims or criminal claims of the United States for the violations alleged in this Order; nor does it limit the rights of the

United States to obtain federal civil monetary penalties or subsequent injunctive relief under the CAA or other applicable federal law or regulations.

32. Respondent neither admits nor denies any of the factual or legal determinations made by the EPA in this Order. Respondent waives its right to contest EPA's jurisdiction to issue or enforce this Order. Respondent waives its right to contest the terms of this Order. Respondent has entered into this Order in good faith without trial or adjudication of any issue of fact or law. Respondent consents to the terms of this Order.

33. Respondent waives any right to judicial review of this Order.

34. The parties shall bear their own costs and fees in this action, including attorney's fees.

35. Failure to comply with this Order may result in an enforcement action for appropriate injunctive relief and penalties pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b) or, in appropriate cases, criminal penalties.

VII. ENFORCEMENT

36. This Order does not in any way impair EPA's rights to enforce the CAA.

37. Be advised that issuance of this Order does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law in this or any other matter.

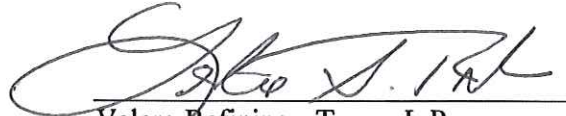
VIII. EFFECTIVE DATE

38. This Order shall become effective upon the date of signature by EPA.

**THE UNDERSIGNED PARTIES CONSENT TO THE ENTRY OF THIS
ADMINISTRATIVE ORDER:**

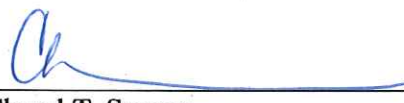
FOR RESPONDENT:

Date: 9/20/18


Valero Refining - Texas, L.P.

FOR THE COMPLAINANT:

Date: 9/27/18


Cheryl T. Seager
Director
Compliance Assurance and
Enforcement Division
U.S. EPA Region 6

CERTIFICATE OF SERVICE

I hereby certify that that a true and correct copy of this Administrative Order was
sent to the following by certified mail, return receipt requested

70151520000339909071

Parker Wilson, Managing Counsel
Environmental & Regulatory Affairs
The Valero Companies
P.O. Box 69600
San Antonio, Texas 78249

9-27-2018
Date

Brie Jackson
U.S. EPA, Region 6
Dallas, TX